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Attorneys for Petitioner REGENCY CENTER LLC

BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

IN THE MATTER OF REGENCY CENTER
 LLC'S PETITION TO REVIEW ACTION
 BY THE REGIONAL WATER QUALITY
 CONTROL BOARD - LOS ANGELES
 REGION, IN ISSUING A LETTER ORDER
 FOR INVESTIGATIONS AND
 REMEDIATION OF 2650 EAST CARSON
 STREET, LAKEWOOD, CALIFORNIA.

CASE NO. PETITION NO.

**LARWQCB LETTER INVESTIGATION
 ORDER OF JULY 15, 2008**

PETITION FOR REVIEW;

REQUEST FOR HEARING;

**REQUEST TO HOLD PETITION IN
 ABEYANCE**

I. INTRODUCTION

Petitioner Regency Center LLC ("Regency"), pursuant to Section 13320 of the California Water Code, petitions the State Water Resources Control Board ("SWRCB" or State Board") for review of a letter order of the California Regional Water Quality Control Board - Los Angeles Region ("LARWQCB" or "Regional Board") dated July 15, 2008 from Tracy J. Egoscue, Executive Officer, to John Manavian, Robertson Properties Group, re "Order Pursuant to California Water Code Sections 13267 and 13304; Requirements for Soil and Groundwater Investigation and Remediation - Regency Center LLC Site at 2650 East Carson Street, Lakewood, California (SCP No. 1214, Site ID#2040303)" (the "Letter Order"). A copy of the July 15, 2008 Letter Order is attached to this Petition as Exhibit A.

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1 By this Petition, Regency only protests the validity of the Letter Order's provisions for
2 submitting and implementing an interim groundwater remedial action plan ("IGRAP"). Letter
3 Order, p. 2, Section 4, 2nd bullet para. Regency has agreed to perform all the other investigation,
4 remediation and planning outlined in the Letter Order, subject to negotiating a modified due date
5 for one item.

6 **II. FACTUAL BACKGROUND**

7 This site investigation and soil cleanup focuses on past discharges of PCE by one dry
8 cleaner in the southeast corner of the commercial property at 2650 East Carson Street, Lakewood,
9 California (the "Property"). The dry cleaner, Cal Cleaners, operated there from about 1961 to
10 1990. Regency voluntarily initiated the investigation of this PCE contamination in 2000, and
11 notified the LARWQCB at that time. Between 2001 and 2007, Regency voluntarily conducted
12 more soil investigations and groundwater investigations, and developed a remedial plan for an
13 SVE soil cleanup. Since early this year, Regency has operated a large SVE system on the eastern
14 part of the Property, which has substantially reduced the mass of PCE from soil.

15 The Property was in agricultural uses until 1959, when it was first developed with a
16 grocery store and a strip mall building. Cal Cleaners operated at the east end of the strip mall
17 building in the southeast part of the Property. It used PCE in its dry cleaning operations there
18 from 1961 to 1990. Cal Cleaners vacated the strip mall building in 1990.

19 Regency acquired the Property in 1979. It demolished the strip mall and other buildings
20 on the Property in 1990 to develop indoor movie theaters, and demolished the theaters in 2000-
21 2001 to make way for the Kohl's department store building that now occupies the Property.

22 In 2000 and 2001, before construction of the Kohl's building, Regency engaged an
23 environmental consulting firm to conduct soil and groundwater tests at the Property. More soil
24 tests followed in 2003 to further delineate PCE contamination in soil, and to collect data to design
25 an SVE cleanup system for the PCE-contaminated soil on the Property.

26 Regency conducted these early tests on its own initiative and started reporting test results
27 to the LARWQCB in 2000. The early tests showed PCE hot spots in soil and groundwater in the
28 immediate vicinity of the former Cal Cleaners site, with PCE contamination levels substantially

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1 lower in upgradient and cross-gradient locations on the Property.

2 Based on these data showing PCE hot spots at the former Cal Cleaners site, Regency, in
3 consultation with LARWQCB staff, continued planning for an SVE system in the eastern part of
4 the Property. Regency installed and tested soil from the extraction wells for this system in 2006,
5 installed the rest of the system in 2007, and started to operate it in 2008. To date, this SVE system
6 has removed over six thousand pounds of PCE from soils.

7 In the meantime, Regency also formulated a work plan to delineate further PCE
8 contamination in soil and groundwater downgradient and cross-gradient from the Cal Cleaners
9 PCE hot spot. This work plan calls for additional soil gas and groundwater sampling points both
10 on and near the Property. Regency voluntarily submitted this work plan to LARWQCB in March
11 2008, and regional board staff conditionally approved it on July 1, 2008.

12 The purpose for issuing the Letter Order on July 15, 2008 is uncertain because Regency
13 initiated the investigations and the soil cleanup on the Property, and has responded to all past
14 requests from the LARWQCB. Since 2006 when Regional Board staff first expressed an interest
15 in overseeing Regency's remedial activities, LARWQCB staff has concurred with Regency's step-
16 by-step soil and groundwater investigations, and in its substantial SVE soil cleanup. The July 15
17 Letter Order was the LARWQCB's first formal order for any investigation or remediation at the
18 Property.

19 The Letter Order directed Regency to perform several different investigation and
20 remediation activities in addition to the IGRAP, as follows:

- 21 1. Submit earlier Phase I Reports on the Property.
- 22 2. Delineate PCE contamination in soil on the Property and on the adjacent parcel to
23 the south, and in groundwater downgradient and cross-gradient of the existing
24 groundwater wells and previous hydropanch points.
- 25 3. Continue submitting quarterly groundwater monitoring reports.
- 26 4. Continue operating the SVE system, and submitting quarterly reports on it.
- 27 5. Develop a Site Conceptual Model, and update it based on the future reports.
- 28 6. Develop a Final Remedial Action Plan for soil and groundwater.

Regency has agreed to undertake all these activities. Regency has asked LARWQCB staff to move the due date for the Site Conceptual Model from September 2008 to March 2009, and has agreed to attempt to meet the other due dates in the Letter Order, including the December 1, 2009 due date for the Final Remedial Action Plan.

III. REQUIRED ELEMENTS OF THIS PETITION

Pursuant to 23 Cal. Code Regs. Section 2050(a), Regency provides the information set out in this Section III. of its Petition.

1. Name, Address and Telephone Number of Petitioner

Regency Center LLC
c/o Robertson Properties Group
120 N. Robertson
Los Angeles, California 90048
(310) 652-3620

2. Specific Action of the Regional Board that The State Board is Requested to Review

The Letter Order more fully described in the first paragraph of this Petition, and attached to the Petition as Exhibit A.

3. Date on Which the Regional Board Acted

July 15, 2008

4. Reasons Why the Regional Board's Letter Order is Inappropriate and Improper

a. *The IGRAP is Out of the Sequence for Site Investigations and Remediation Mandated by SWRCB Resolution No. 92-49*

Under a 1992 State Water Resources Control Board resolution, the regional boards must direct parties conducting site investigations and cleanups to do so, "... in a progressive manner, normally consisting of the following phases . . . :

- a. Preliminary site assessment . . . ;
- b. Soil and water investigation . . . ;

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- 1 c. Proposal and selection of cleanup and abatement action . . .;
- 2 d. Implementation of cleanup and abatement action; and
- 3 e. Monitoring . . .

4 Policies and Procedures for Investigation and Cleanup of Discharges under Water Code Section
5 13304, "State Water Resources Control Board Resolution No. 92-49 (1992)" ("SWRCB
6 Resolution 92-49"), Section II.A.1.

7 The IGRAP requirement that the Letter Order seeks to impose on Regency calls for
8 remedial groundwater work before Regency completes the investigatory work that will define the
9 extent of the PCE groundwater plume, and thus does not conform to the sequence of activities set
10 out in SWRCB Resolution 92-49. Moreover, such premature groundwater work can be counter-
11 productive by, for example, spreading the PCE plume originating from the former Cal Cleaners
12 site. Hence, the Letter Order's IGRAP requirement should be eliminated so that the sequence of
13 activities set out in SWRCB Resolution 92-49 can be followed for this Property.

14 **b. *The IGRAP's Extra Short-Term Testing and Cleanup Requirements Are***
15 ***Not Properly Justified Under Water Code Section 13267 or 13304***

16 The LARWQCB issued the Letter Order under authority of Water Code Sections 13267
17 and 13304. Under Section 13267(b), when a regional board requests an IGRAP or other plan or
18 report from a party, the following requirements apply:

19 "The burden, including costs, of these reports shall bear a reasonable
20 relationship to the need for the report and the benefits to be obtained
21 from the reports. In requiring those reports, the regional board shall
22 provide the person with a written explanation with regard to the need
23 for the reports, and shall identify the evidence that supports requiring
24 that person to provide the reports."

25 Under §13304, the weight of the evidence must support each testing and cleanup requirement an
26 order imposes on a party.

27 The Letter Order offers no explanation of the costs and benefits of or the need for an
28 IGRAP to be formulated and implemented in the next several months, as an added activity to all

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1 the other voluntary investigations and soil clean up and the remedial planning that Regency
2 already has undertaken, and has agreed to perform in the next 16 months. Hence, the IGRAP
3 requirement is not properly justified under Section 13267.

4 Moreover, nothing in the administrative record shows any compelling need for the IGRAP.
5 Instead, the evidence shows that the source of the PCE contamination on the Property, the Cal
6 Cleaners operation, was removed almost two decades ago; the PCE contamination is now being
7 removed from the Property's soil by Regency's SVE system; Regency has agreed to further
8 delineate the remaining PCE groundwater plume both on and off-site; and no groundwater
9 production well in the area has been contaminated with PCE. The weight of this evidence shows
10 that the IGRAP is not needed in the next several months. Therefore, the IGRAP requirements
11 should not be included in the Letter Order under Section 13304.

12 *c. Because Regency Never Discharged or Threatened to Discharge PCE on*
13 *the Property, It Should Not Be Subject to Orders Under §§13267, and*
14 *13304*

15 The Regional Board may only issue orders for investigations and reports under §13267 to
16 a party that, "... has discharged, discharges, or is suspected of discharging ... waste" so as to
17 affect water quality in the state. Water Code, §13267(b)(1). Further, the Regional Board may only
18 issue orders under §13304 to a party that "has caused or permitted, causes or permits or threatens
19 to cause or permit any waste to be discharged or deposited ..." where it may enter and pollute
20 waters of the state. Water Code, §13304.

21 The record shows that Cal Cleaners discharged the PCE into the soil at the Property, and
22 that some of this PCE ultimately reached and polluted the groundwater under the Property.
23 Regency did not make these PCE discharges to soil and groundwater, and never gave Cal Cleaners
24 permission to make them. Hence, the LARWQCB cannot issue the Letter Order to the non-
25 discharger Regency.

26 *d. The Letter Order is Also Invalid Because the Regional Board Violated*
27 *Due Process Requirements*

28 In California, government agencies cannot take enforcement action that burdens another

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1 party without giving that party notice and an opportunity to be heard. Moreover, unless an
 2 emergency exists, such notice should be given before the enforcing agency imposes the burden of
 3 its enforcement action on the other party *See, e.g. People v. Lockheed Shipbuilding and*
 4 *Construction Co.*, 35 Cal. App.3d 776 (1973). More broadly, due process requires: (a) notice of
 5 the proposed action; (b) a statement of reasons for the action; (c) a copy of the charges and
 6 materials on which the action is based; and (d) the right to respond to the authority seeking to
 7 impose the order. *Williams v. County of Los Angeles*, 22 Cal.3d 731, 736-37 (1978).

8 In this proceeding, the Regional Board issued its July 15, 2008 Letter Order without giving
 9 Regency any prior notice of its contents, or any opportunity to respond. Moreover, the Letter
 10 Order fails to inform Regency of reasons for the required IGRAP or to provide to or otherwise to
 11 identify for Regency any documents that support the IGRAP requirements in the Letter Order.
 12 Hence, the Regional Board violated administrative due process in issuing the IGRAP provisions of
 13 its Letter Order, making that part of the order invalid.

14 5. **The Manner in Which Petitioner Is Aggrieved**

15 Regency will be subject to the unlawful and unreasonably burdensome investigation and
 16 cleanup requirements under the IGRAP provisions of the Letter Order. These requirements could
 17 result in the expenditure of hundreds of thousands of dollars of Regency's funds over the next two
 18 years with little or no benefit, and with counterproductive detrimental effects on groundwater
 19 contamination over the longer term. Regency would be burdened with these expenses at a time of
 20 particular economic challenges to those in real estate, Regency's primary focus.

21 In addition, the Letter Order will make Regency subject to Regional Board and other
 22 enforcement actions, including claims for civil penalties, for any violation of the unlawful IGRAP
 23 provisions of the Letter Order. Exposing Regency to such penalties without legal justification
 24 would be especially unfair in light of the substantial investigations and remedial work that
 25 Regency has done voluntarily to date.

26 The manner in which Regency is aggrieved will be set out in more detail in full Points and
 27 Authorities if and after this proceeding is brought out of abeyance, and the record for it is
 28 supplemented.

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6. **The Specific Actions by the State Board that Petitioner Requests**

Regency requests that the State Board:

(a) Invalidate and set aside the IGRAP provisions of the Letter Order, pursuant to 23 Cal. Code of Regs. Section 2052(a)(2)(B), or direct the Regional Board to take such action pursuant to Section 2052(a)(2)(C).

(b) Grant such other and further relief as the State Board deems appropriate.

7. **Statement of Points and Authorities**

The presentation in Section III.4. of this Petition constitutes Petitioner's Preliminary Statement of Points and Authorities as if fully set forth here. In the event that this matter is brought out of abeyance and reactivated, Regency will request the opportunity to present a full Statement of Points and Authorities after the record has been supplemented and on a schedule to be approved or directed by the State Board.

8. **Statement that the Petition Has Been Sent to the Regional Board**

Two copies of this Petition, with its exhibit, were sent to the Regional Board on this date by United States mail, in two separate envelopes, with first-class postage prepaid, addressed as follows:

Ms. Tracy J. Egoscue
 Executive officer
 California Regional Water Quality Control Board – Los Angeles Region
 320 West 4th Street, Suite 200
 Los Angeles, California 90013

Jennifer Fordyce, Esq.
 Staff Counsel
 Office of Chief Counsel
 State Water Resources Control Board
 1001 I Street, 22nd Floor
 Sacramento, California 95814

9. **Statement as to Why Regency Could Not Raise the Substantive Issues Raised in This Petition Before the Regional Board**

The Regional Board did not give Regency any prior notice of the contents of the Letter Order, either through an opportunity to consult over the Letter Order in a draft or proposed form, or in any other manner. Therefore, Regency had no opportunity to present the substantive points

1 raised in this petition, or any other points, to the Regional Board before that board issued the
2 Letter Order.

3 **IV. REQUEST TO SUPPLEMENT THE RECORD**

4 Pursuant to Cal. Water Code Section 13329(b) and 23 Cal. Code Regs. Section 2050.6,
5 Regency respectfully requests that the State Board supplement the record for this proceeding.
6 Regency will make a formal request to present evidence, pursuant to 23 Cal. Code Regs. 2050.6, if
7 and shortly after this proceeding is taken out of abeyance and becomes active. At present,
8 Regency plans to prepare the following types of evidence to submit to the State Board.

- 9 1. A compilation of all the testing done on, and around the Property to date,
10 and information about the costs of that testing.
- 11 2. Cost estimates for the IGRAP work and for all future investigations,
12 cleanups and planning that Regency has agreed to undertake to date.
- 13 3. Declarations of experts reviewing the soil and groundwater testing and the
14 soil cleanup conducted to date, and the future testing, soil cleanup and
15 planning to which Regency has agreed, and explaining why these activities,
16 without the IGRAP, should be adequate to clean up the soil and protect the
17 groundwater.
- 18 4. Declaration of an expert explaining why the IGRAP activities required by
19 the Letter Order are without material benefit in the context of all the other
20 activities that have and will be conducted, and why some of the IGRAP
21 activities may be harmful.

22 **V. REQUEST FOR A HEARING**

23 Pursuant to Cal. Water Code Section 13320(b) and 23 Cal. Code Regs. Section 2052(c),
24 Regency respectfully requests that the State Board hold a hearing in this proceeding for the
25 purpose of receiving additional evidence and hearing oral argument.

26 **VI. REQUEST TO HOLD THIS PETITION IN ABEYANCE**

27 Pursuant to 23 Cal. Code Regs., Section 2050.5(d), Regency respectfully requests that the
28 State Board hold this petition in abeyance so that representatives of Regency and the Regional

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1 Board may have an opportunity to try to resolve their differences over the IGRAP provisions in
2 the Letter Order. Regency will notify the State Board promptly as soon as it is ready to have its
3 Petition considered.

4 **VII. CONCLUSION**

5 Regency already has voluntarily conducted extensive soil and groundwater testing on the
6 Property and installed a substantial SVE system to clean up the PCE in soil on the Property, and
7 has agreed to further testing to delineate the extent of PCE in soil and groundwater and to submit a
8 final Remedial Action Plan to the Regional Board by December 1, 2009. In large part because of
9 this substantial actual past and agreed future work, the Letter Order's IGRAP provisions are
10 unnecessary and unjustified. Hence, the State Board should invalidate and set those provisions
11 aside.

12
13 DATED: August 14, 2008

Respectfully submitted,

14 JAMES A. GEOCARIS
15 KARA GERMANE
16 LEWIS BRISBOIS BISGAARD & SMITH LLP

17 By: 

18 James A. Geocar
19 Attorneys for Petitioner REGENCY CENTER
20 LLC
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EXHIBIT "A"



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 • Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

July 15, 2008

Mr. John Manavian
Robertson Properties Group
120 N. Robertson
Los Angeles, CA 90048

Certified Mail
Return Receipt Requested
Claim No. 7006 3450 0002 4641 7612

ORDER PURSUANT TO CALIFORNIA WATER CODE SECTIONS 13267 AND 13304: REQUIREMENTS FOR SOIL AND GROUNDWATER INVESTIGATION AND REMEDIATION - REGENCY CENTER LLC SITE AT 2650 EAST CARSON STREET, LAKEWOOD, CALIFORNIA (SCP NO. 1214, SITE ID# 2040303)

Dear Mr. Manavian:

This order is sent to you to address the elevated volatile organic compounds (VOCs) detected in the subsurface soil and groundwater on the Regency Center Site (Site) located at 2650 East Carson Street, Lakewood, California. Among the detected VOCs (August, 2000) is tetrachloroethene (PCE) in soil ranged from 6 micrograms per kilogram ($\mu\text{g/kg}$) to 4,600,000 $\mu\text{g/kg}$ at 20 feet below ground surface (bgs) and in the groundwater up to 101,000 micrograms per liter ($\mu\text{g/L}$).

California Regional Water Quality Control Board, Los Angeles Region (Regional Board) staff has received and reviewed the following documents on the subject property:

1. Focused Phase II Site Investigation Report, Former Cal Cleaners, 2628 East Carson Street, Lakewood, California. Prepared by Alaska Petroleum Environmental Engineering, Inc. (Alaska), September 2000.
2. Expanded Phase II Site Investigation Report, Proposed Kohl's Building Pad, Regency Entertainment Center, 2628 East Carson Street, Lakewood, California. Prepared by Alaska Petroleum Environmental Engineering, Inc., January 2002.
3. Soil Vapor Extraction and Groundwater Monitoring Well Installation Report, Regency Center, LLC, 2650 East Carson Street, Lakewood, California. Prepared by Environmental Engineering & Consulting (EEC), Inc. December 22, 2006.
4. Quarterly Groundwater Monitoring Report, Regency Center, LLC, 2650 East Carson Street, Lakewood, California. Prepared by EEC, July 10, 2007.
5. Site Investigation Workplan (Workplan), Regency Center, LLC, 2650 East Carson Street, Lakewood, California. Prepared by EEC, March 28, 2008.
6. Quarterly Groundwater Monitoring Report, First Quarter 2008, Regency Center, LLC, 2650 East Carson Street, Lakewood, California. Prepared by EEC, April 14, 2008.
7. Soil Vapor Extraction Startup and Remedial Progress Report, Regency Center, LLC, 2650 East Carson Street, Lakewood, California. Prepared by EEC, April 14, 2008.

The Site is located southwest of the intersection of Carson Street and Paramount Boulevard in a general commercial/industrial area of Lakewood, California. The Site currently is a retail shopping center, including Kohl's Department Store as its anchor tenant.

Since 1959, the Site has been developed for commercial use including as a strip mall from previous agriculture and/or ranch function. A former dry cleaning shop, Cal Cleaners, was located on the eastern

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end of the strip mall building at 2628 East Carson Street. Cal Cleaners used PCE in dry cleaning operations at the site between approximately 1961 and 1990. The strip mall structure was demolished in the late 1990's. The current Kohl's building was constructed in 2002.

The regional groundwater flow direction in the site vicinity is generally to the west-southwest (Water Replenishment District, 2007). The depth to the shallow groundwater aquifer at the Site is approximately 47 to 50 feet below ground surface (bgs) with a flow direction south-southwesterly (ECC, 2007). The nearest active water production well (City of Long Beach Development Well No. 9) is located approximately 1,800 feet southwest (down-gradient) of the Site (Los Angeles County Department of Public Works, 2003). Other active production wells include North Long Beach #12, Los Angeles County Well No. 936K located approximately 1,800 feet northwest (cross-gradient of the Site), and Los Angeles County Well No. 946 located approximately 2,800 feet northeast of the Site.

Summary of Onsite Subsurface Investigations and Cleanup Status

Prior to the redevelopment of the site (before March, 2007), Robertson Properties Group conducted onsite subsurface investigation and mitigation measures, without Regional Board's oversight, including installing multiple soil vapor wells and groundwater monitoring wells on the parking lot of the Kohls department store. During this period, Alaska and ECC conducted phase I and phase II environmental assessment activities at the site. The subsurface investigation results indicate that VOCs, predominantly PCE, have been detected in soil vapor, soil, and groundwater beneath the former Cal Cleaner and its vicinity. PCE was detected in soils at all depths sampled from five feet bgs to groundwater level (55 to 60 feet bgs). PCE concentrations detected in the soil vapor ranged from 3.4 to 130 micrograms per liter ($\mu\text{g/L}$). PCE concentration detected in the soil was up to 4,600,000 $\mu\text{g/kg}$. PCE concentration in the groundwater beneath the Site was as high as 101,000 $\mu\text{g/L}$. The highest soil and groundwater PCE concentrations were detected in soil boring located closest to the former Cal Cleaners.

The Alaska's and ECC's subsurface investigations have been focused on onsite soil and groundwater. The extent of VOC impact in soil, soil vapor, and groundwater has not been completely defined. In the Regional Board's December 20, 2007 letter, staff directed Robertson Properties Group to continue additional delineation of both vertical and lateral VOC impacts in the subsurface so that the soil plume, soil vapor plume, and groundwater plume, both onsite and offsite, can be completely defined. Your March 28, 2007 Workplan is prepared in response to the Regional Board's December 20, 2007 letter. This Workplan presents work scope and protocol for additional delineation of on-site and off-site VOCs impact in soil, soil vapor, and groundwater. In a letter dated July 1, 2008, staff conditionally approved the proposed workplan and directed additional soil gas investigation to include the eastern portion of the GK Design/Commercial building and parking lot.

Robertson Properties Group initiated soil remediation using an onsite soil vapor extraction system (SVE) on February 14, 2008. The SVE system is designed to remove the PCE in soil. The SVE system consists of 22 onsite triple-nested SVE extraction wells spaced to cover the onsite VOC-impacted soil. The system has a capacity of 1,500 standard cubic feet per minute (scfm) extraction flow rate and two 3,000 pounds carbon vessels for off-gas treatment. As of April 14, 2008, the SVE system had operated approximately 600 hours continuously, and had removed approximately 800 pounds of PCE from beneath the Site.

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Property at 2650 E Carson, Lakewood

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No groundwater remedial action has been initiated at the site. Although we requested you to submit an interim groundwater remedial action plan (IGRAP) aiming at source reduction and plume containment in our December 20, 2007 letter, your March 28, 2007 Workplan suggested that the IGRAP be prepared after a more complete assessment of regional groundwater issues and groundwater sampling to be coordinated with other responsible parties.

These detected levels of VOCs in the subsurface have severely impacted the beneficial uses of the State's groundwater. For instance, dissolved PCE concentration in MW-2, near the former Cal Cleaners, is 71,000 µg/L as of March 27, 2008 which is 14,200 times of the maximum contaminant level (MCL) of 5 µg/L for PCE, the water quality objective. We understand that certain field tests such as pumping test may be required for the selection of an optimal groundwater remedial system. However, the required interim source reduction and plume containment shall not be delayed any further due to the significant levels of VOCs in the groundwater.

Pursuant to sections 13267 and 13304 of the California Water Code, you are hereby directed to adequately assess, monitor, report, and cleanup and abate the effects of PCE released from the former Cal Cleaner operations and its degraded compounds in the subsurface soil, soil vapor, and groundwater, both onsite and offsite. You shall:

1. **Development of a Site Conceptual Model:** Develop and submit a site conceptual model (SCM). The SCM shall include a written presentation with graphic illustrations of the release scenario and the dynamic distribution of waste at the Site and its vicinities. You shall construct the SCM based on actual data collected from the subject site and its vicinities. The SCM shall be updated, as new information becomes available. Updates to the SCM shall be included in all future technical reports submitted. The first SCM is due no later than September 8, 2008.
2. **Delineation of Contamination in the Unsaturated and Saturated Zone:** Conduct additional investigations to completely define the vertical and lateral impact of PCE released from the former Cal Cleaner operations and its degraded compounds in the subsurface soil, soil vapor, and groundwater, both onsite and offsite. While you implement the scope of work proposed in your March 28, 2008 Workplan, you shall submit a Work Plan Addendum, due by August 29, 2008, for an additional delineation of the impact of VOCs on the adjoining south property, located at 4007 Paramount Boulevard, Lakewood.

Pending on the results of the aforementioned subsurface investigations, additional assessment maybe required.
3. **Groundwater Monitoring:** To track the dynamic migration of the VOCs-plume and assess the progress of cleanup activities, you shall continue the quarterly groundwater monitoring program which shall cover the existing groundwater monitoring wells and any additional groundwater monitoring wells to be installed in the future. The quarterly groundwater monitoring reports shall be submitted according to the following schedule with the next report due by October 15, 2008.

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Mr. John Manavian
Property at 2650 E Carson, Lakewood

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July 15, 2008

<u>Quarter</u>	<u>Report Due Date</u>
January 1 - March 31	April 15
April 1 - June 30	July 15
July 1 - September 30	October 15
October 1 - December 31	January 15

4. **Remedial Action:** Initiate a phased cleanup and abatement program with the cleanup of any remaining soil, soil gas and groundwater contamination and the abatement of threatened beneficial uses of groundwater and pollution sources as highest priority. Specifically, you must:
- Continue operating the SVE system and submit quarterly remediation progress reports to this Regional Board. The quarterly remediation progress reports shall document all performance data including, but not limited to, total operational time, total VOCs mass removal, influent and effluent vapor monitoring data of the SVE system. The results obtained during the previous quarter shall be submitted according to the following schedule with the next report due by October 15, 2008.

<u>Quarter</u>	<u>Report Due Date</u>
January 1 - March 31	April 15
April 1 - June 30	July 15
July 1 - September 30	October 15
October 1 - December 31	January 15

- Develop an interim groundwater remedial action plan (IGRAP) and submit it for Regional Board's review by September 8, 2008. The IGRAP shall include:
 - 1) Protocol for necessary field test to evaluate remedial alternatives;
 - 2) A program for preventing the continuing migration of the existing VOCs plume in groundwater;
 - 3) Interim source reduction goals and a protocol and schedule to reach them.
- Following the completion of the soil, soil gas, and groundwater plume delineation, a final remedial action plan (RAP) for soil and groundwater remediation shall be prepared and submitted by December 1, 2009, for our review and approval. The RAP must include, at a minimum, the following information:
 - Assessment of impacts, including hydrogeologic and contaminant characteristics of the site, and suspected preferential pathways, such as floor drains/sumps, sewer lines, water lines, storm drains, electrical and phone lines, etc., which shall be illustrated in plan and cross-section views.
 - Determination of applicable cleanup levels. The proposed soil cleanup levels must ensure that remaining leachable or mobile chemicals of concern do not threaten to cause groundwater or surface water to exceed applicable water cleanup levels, and do not threaten public health through any potential pathway. According to the Water Quality Control Plan (Basin Plan) for the Los Angeles

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Mr. John Manavian
Property at 2650 E Carson, Lakewood

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Region, groundwater in the area shall not contain concentrations of chemical constituents in excess of the California drinking water standards specified in Title 22 of the California Code of Regulations.

- iii. Evaluations of remediation alternatives, including the proposed pilot studies. Each recommended remediation alternative must be capable of achieving the cleanup goals proposed and approved for the Site. The RAP must evaluate the appropriateness and cost effectiveness of the proposed remediation alternatives for restoring or protecting the designated beneficial uses of the waters of the State.
- iv. A plan to monitor and report the results of additional site investigation and the effectiveness of the remedial action selected.

5. **Phase I Environmental Assessment Reports:** We are missing the Phase I Environmental Assessment Reports completed for the Site. You shall submit all the Phase I Environmental Assessment Reports to this Regional Board by August 4, 2008.

Pursuant to section 13307.1 of the California Water Code, the Regional Board is required to notify all current fee title holders for the subject site prior to considering corrective action or granting case closure. As the identified current primary or active responsible party for corrective action and/or cleanup at the Site, we are requesting that you provide us with a complete list of all record fee title holders for the subject site and appropriate documentation. Therefore, please provide the name, mailing address, electronic mailing address, and telephone number for all record fee title holders for the site together with a copy of county record of current ownership and parcel map, available from the County Recorder's Office, for verification. Please submit the requested information to this Regional Board by October 1, 2008.

Pursuant to section 13268 of the California Water Code (CWC), failure to submit the required reports, work plans, or documents by the due dates may result in civil liability administratively imposed by the Regional Board in an amount up to one thousand dollars (\$1,000) for each day the report or document is not received. These civil liabilities can be assessed by the Regional Board at any time after above due date(s), and without further warning.

Pursuant to CWC section 13304, you shall cleanup and abate the soil and groundwater pollution and threatened pollution caused by the historic operations conducted at the site. Failure to comply with the terms of this Order may result in imposition of civil liabilities, either administratively by the Regional Board or judicially by the Superior Court in accordance with section 13350 of the CWC, and/or referral to the Attorney General of the State of California for such action as he may deem appropriate.

Pursuant to CWC section 13320, you may seek review of this CWC section 13267 letter by filing a petition with the State Water Resources Control Board (State Board). Such petition must be sent to the State Board, located at P.O. BOX 100, 1001 I Street, Sacramento, California 95814, within 30 days of receipt of this CWC 13267 letter.

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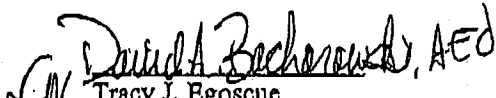
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Property at 2650 E Carson, Lakewood

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Should you have any questions, please contact G. Jeffrey Hu at (213) 576-6736 or Dr. Kwangil Lee at (213) 576-6734.

Sincerely,


Tracy J. Egoscue
Executive Officer

cc: Malissa McKeith, Lewis Brisbois Bisgaard & Smith, LLP (mcKeith@lbbslaw.com)
Jennifer Fordyce, Office of the Chief Counsel, State Water Resources Control Board
(jfordyce@waterboards.ca.gov)
Mark Zeko, EEC, 501 Park Center Drive, Santa Ana, CA 92705 (mzeko@ecoworld.com)

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CALIFORNIA STATE COURT PROOF OF SERVICE

In the Matter of Regency Center LLC's Petition to Review Action by the Regional Water Quality Control Board - Los Angeles Region, in Issuing a Letter Order for Investigations and Remediation of 2650 East Carson Street, Lakewood, California - File No. 27087-04

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and not a party to the action. My business address is 650 Town Center Drive, Suite 1400, Costa Mesa, California 92626.

On August 14, 2008 I served the following document(s): PETITION FOR REVIEW

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

Ms. Tracy J. Egoscue
Executive Officer
California Regional Water Quality Control
Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Jennifer Fordyce, Esq.
Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814
jfordyce@waterboards.ca.gov

Mr. John Manavian
Robertson Properties Group
120 N. Robertson
Los Angeles, CA 90048

Mark Zeko, EEC
501 Park Center Drive
Santa Ana, CA 92705
mzeko@eecworld.com

The documents were served by the following means:

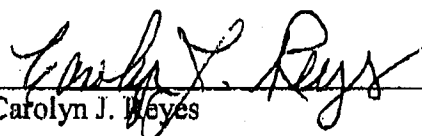
(BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above and (specify one):

☒ Deposited the sealed envelope or package with the U.S. Postal Service, with the postage fully prepaid.

☐ Placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 14, 2008 at Costa Mesa, California.


Carolyn J. Hayes

LEWIS BRISBOIS BISGAARD & SMITH LLP
650 TOWN CENTER DRIVE, SUITE 1400
COSTA MESA, CALIFORNIA 92626
TELEPHONE 714.545.9200